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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,653	10/21/2003	Shiping Wang	GL-6171	5864
7590 08/14/2006			EXAMINER	
Kim Luna 1430 Waukegan Road McGaw Park, IL 60085-6787			BERNATZ, KEVIN M	
			ART UNIT	PAPER NUMBER
			1773	
DATE MAILED: 08/14/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/690,653

Applicant(s)

WANG ET AL.

Examiner

Kevin M. Bernatz

Art Unit

1773

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 01 August 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 18-36.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Kevin M. Bernatz, PhD
Kevin M. Bernatz, PhD
Primary Examiner

August 10, 2006

Continuation of 3. NOTE: the requirement of a separate elastomeric layer was not previously required and would therefore require further search and/or consideration..

Continuation of 11. does NOT place the application in condition for allowance because: applicants' arguments are directed to the unentered amendment. In so far as they apply to the rejection of record, applicants argue that Aloe vera and pantothenol are not known equivalents (pages 7 - 8 of response). The Examiner respectfully disagrees.

The Examiner notes that both Aloe vera and pantothenol have many known beneficial effects. Mansouri explicitly teaches the equivalency of these two compounds for skin treatment, as noted in the rejection of record. While Berry calls the compound a "moisturizer" and Mansouri calls the compound an "anti-inflammatory agent", it is the Examiner's opinion that the important facts are that both references disclose the same intended use (i.e. coating composition for skin treatment) and that the equivalency is expressly taught (i.e. in Mansouri). Furthermore, the Examiner notes that a moisturizer can be considered an anti-inflammatory agent since it keeps the skin moist and helps to prevent dryness and other irritation.

Applicants further argue that Berry et al. teach away from a combination with Mansouri (page 8 of response). The Examiner respectfully disagrees.

The Examiner notes that Berry et al. also teach that failure to include an antibacterial agent "can have serious consequences" (col. 2, lines 49 - 60), clearly indicating that while such chemicals may be unpreferred, they are also necessary in many cases to avoid bacterial growth. As such, the Examiner does not find the argument that Berry et al. teaches away from Mansouri as convincing.

With regard to applicants' arguments that Berry et al. fail to teach or suggest a separate elastomeric layer, the Examiner acknowledges that such language would appear to distinguish over the Berry et al. reference. However, further search and/or consideration would be required since the pending claims do not require a separate elastomeric layer..